



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Washington, D.C. 20230

OFFICE OF THE GENERAL COUNSEL

VIA FACSIMILE TRANSMISSION

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MAY 10 2002

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Re: Federal Consistency Appeal of Barnes Nursery, Inc.
Request for Stay and Remand

Dear Counsel:

Our office is in receipt of Appellant's Request for a Stay and Remand, dated May 3, 2002, pursuant to 15 CFR 930.129(c)(3) and (d) and enclosed brief in support of Appellant's request.

NOAA's regulations at 15 CFR 930.129(c)(3) and (d) provide that the Secretary may, in the exercise of his discretion, stay the processing of a consistency appeal and remand it to the appropriate state agency if significant new information relevant to the State's objection is submitted to the Secretary and that significant new information was not previously supplied to the State as part of its consistency review.



Federal Consistency Appeal of Barnes Nursery, Inc.

Request for Stay and Remand



Page 2

We understand that the Ohio Department of Natural Resources does not object to Appellant's request. However, at this time, Appellant has failed to make the necessary showing under 15 CFR 930.129 by not providing:

1. Copies of the new information for inclusion in the record of decision;
2. An explanation of how the new information is relevant to the State agency's objection; and
3. An explanation of why the new information is considered significant by the parties.

Accordingly, this office grants Appellant an additional 14 days from the date of this letter, May 24, 2002, to perfect its request by providing the Secretary with the items described above.

Sincerely,


 Karl D. Gleaves
Assistant General Counsel for
Ocean Services